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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 DOCKET NO. 1:13-MD-2419 (RWZ)
4 IN RE: NEW ENGLAND COMPOUNDING
5 PHARMACY, INC. PRODUCTS
6 LIABILITY LITIGATION

7 THIS DOCUMENT RELATES TO:

8 ARMETTA, ET AL. V. BOX HILL SURGERY CENTER,
9 LLC, ET AL.
10 NO. 1:14-CV-14022-RWZ

11 BOWMAN, ET AL. V. BOX HILL SURGERY CENTER,
12 LLC, ET AL.
13 NO. 1:14-CV-14028-RWZ

14 DAVIS, ET AL. V. BOX HILL SURGERY CENTER,
15 LLC, ET AL.
16 NO. 1:14-CV-14033-RWZ

17 DREISCH, ET AL. V. BOX HILL SURGERY CENTER,
18 LLC, ET AL.
19 NO. 1:14-CV-14029-RWZ

20 FARTHING, ET AL. V. BOX HILL SURGERY CENTER,
21 LLC, ET AL.
22 NO. 1:14-CV-14036-RWZ

23 KASHI, ET AL. V. BOX HILL SURGERY CENTER,
24 LLC, ET AL.
25 NO. 1:14-CV-14026-RWZ

26 TORBECK, ET AL. BOX HILL SURGERY CENTER,
27 LLC, ET AL.
28 NO. 1:14-CV-14023-RWZ

29 HANDY, ET AL. V. BOX HILL SURGERY CENTER,
30 LLC, ET AL.
31 NO. 1:14-CV-14019-RWZ

32 DEPONENT: LAXMAIAH MANCHIKANTI, M.D.

33 DATE: FEBRUARY 16, 2017

34 REPORTER: CHELSEA SEVILLA-LOZADA

EXHIBIT

3

<p>Page 102</p> <p>1 this objection.</p> <p>2 MR. KIRBY: Okay. Thank you. I'll call him</p> <p>3 back in. By the way, while he's out, what's the --</p> <p>4 how much longer do you think you have, Jay, because</p> <p>5 I know then Harry probably has some questions, too.</p> <p>6 MR. MILLER: I've got to stop probably at</p> <p>7 around quarter of 3:00.</p> <p>8 MR. MILLER: Meaning the deposition has to be</p> <p>9 done by then?</p> <p>10 MR. MILLER: No. I'm going to -- I'll let --</p> <p>11 I'll stop questioning, Glenn will take over and let</p> <p>12 Harry do his questioning, but we'll be done our part</p> <p>13 by quarter of 3:00.</p> <p>14 MR. KIRBY: Okay. Harry, do you think -- do</p> <p>15 you think with your questioning, I don't know how</p> <p>16 much you have, that we could be done by 4:30? Wait,</p> <p>17 wait, wait. So we're on -- we're in separate time -</p> <p>18 - this can be off the record, by the way.</p> <p>19 (OFF THE RECORD)</p> <p>20 BY MR. MILLER:</p> <p>21 Q Doctor, I want to clarify this paragraph that</p> <p>22 begins "If or when she obtained materials from NECC, she</p> <p>23 saw or would have seen representations by NECC," and</p> <p>24 then there's about seven lines of different</p> <p>25 representations. Isn't it true that you now know that</p>	<p>1 just talking about, at the very end reinforces the</p> <p>2 propriety of Box Hill's due diligence prior to</p> <p>3 purchasing from NECC.</p> <p>4 A Which one is that?</p> <p>5 MR. KIRBY: What's the question?</p> <p>6 A What page are we talking about?</p> <p>7 Q Page 8, the same paragraph we were just</p> <p>8 talking about, the very last line of that paragraph.</p> <p>9 A Oh, okay.</p> <p>10 Q Reinforces the propriety of Box Hill's due</p> <p>11 diligence prior to purchasing from NECC. Due -- what</p> <p>12 due diligence did Dr. Bhamhani exercise?</p> <p>13 MR. KIRBY: Objection to form, foundation, and</p> <p>14 the commentary before the question.</p> <p>15 A Well, if you are reading -- if I'm reading</p> <p>16 that sentence that is related to your question, there</p> <p>17 were no guidelines from any major medical associations,</p> <p>18 that is true, there were no guidelines for her to do a</p> <p>19 due diligence, or for -- by her surgery center prior to</p> <p>20 purchasing medication compounded such as NECC.</p> <p>21 Q My question is what due diligence did Dr.</p> <p>22 Bhamhani do? She did nothing, right?</p> <p>23 MR. KIRBY: Objection. Asked and answered.</p> <p>24 A Well, her own experience is the due diligence</p> <p>25 to a great extent. Then she did not do any additional</p>
<p>Page 103</p> <p>1 Dr. Bhamhani didn't see any representations from NECC,</p> <p>2 correct?</p> <p>3 A That's correct.</p> <p>4 Q So his opinion, then, really isn't applicable</p> <p>5 anymore. I mean, there was no reassurance from any</p> <p>6 representation, because we know she didn't get any,</p> <p>7 correct?</p> <p>8 MR. KIRBY: Objection to form.</p> <p>9 A Yes. That's correct, she has not seen any of</p> <p>10 this.</p> <p>11 Q Okay. Is your opinion that Dr. Bhamhani had</p> <p>12 no inclination to do any investigation, however limited,</p> <p>13 of NECC prior to using them at Box Hill based in part</p> <p>14 because she had had this prior experience with NECC at</p> <p>15 her prior employer?</p> <p>16 MR. KIRBY: Objection to form. You can answer.</p> <p>17 A Well, not in part. She had the prior</p> <p>18 experience of her own, and that doesn't have anything to</p> <p>19 do with the prior employer. The prior employer was the</p> <p>20 one who initiated -- in any case, she was practicing on</p> <p>21 her own, whether she was employed by someone else or</p> <p>22 that -- that suffices to make orders from the same</p> <p>23 entity where you are getting them from. That is</p> <p>24 satisfactory. That is standard of practice.</p> <p>25 Q Well, continuing with that propriety we were</p>	<p>Page 105</p> <p>1 due diligence and that is what we are saying. I am</p> <p>2 saying, that there are no guidelines to do such thing,</p> <p>3 for example, we did not do any due diligence either</p> <p>4 afterwards, or before, so that is the standard practice</p> <p>5 among surgery centers, and offices, and by physician</p> <p>6 practices.</p> <p>7 Q So if we take away her prior employment</p> <p>8 experience, I want you to assume hypothetically that Dr.</p> <p>9 Bhamhani started practice on her own in 2007, has never</p> <p>10 heard of NECC, and says "I've got to purchase a</p> <p>11 compounded drug," opens a phone book up and picks NECC,</p> <p>12 do your testimony and your opinions that's all she's</p> <p>13 required to do, if they're a licensed compounding</p> <p>14 pharmacy, she's met the standard of care?</p> <p>15 MR. KIRBY: Objection to form, foundation, the</p> <p>16 hypothetical nature, and facts not in evidence. You</p> <p>17 can answer.</p> <p>18 A Well, as you said, it is completely</p> <p>19 hypothetical, but if that situation arises, if she opens</p> <p>20 the telephone book, she will not find NECC there. The</p> <p>21 way she will find where to get these drugs is, again,</p> <p>22 she has to go back to her previous employer or where she</p> <p>23 was trained, or a senior or a friend, or somebody else</p> <p>24 and find out about the information, and then if she is</p> <p>25 not satisfied with that information, then she may check</p>